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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,099	04/01/2005	Patrice Bujard	SE/2-22794/A/PCT	2615

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CIBA SPECIALTY CHEMICALS CORPORATION  
PATENT DEPARTMENT  
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TARRYTOWN, NY 10591-9005

EXAMINER
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ABU ALI, SHUANGYI

ART UNIT	PAPER NUMBER
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1755

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/20/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/530,099

Applicant(s)

BUJARD ET AL.

Examiner

Shuangyi Abu-Ali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11, 12 and 14-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 12 and 14-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

(1)

***Status of Claims***

Claims 1-9 and 11-21 remain for examination wherein claims 1, 2, 4, 9, 20 and 21 are amended and claims 10 and 13 are canceled.

(2)

***Claim Rejections - 35 USC § 102***

The rejection of claims 1-6 and 9-21 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,569,529 to Phillips et al. as general set forth in the first office action mailed on 10/26/2006 stands.

The rejection of claims 1-6 and 9-21 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,569,529 to Phillips et al. as general set forth in the first office action mailed on 10/26/2006 stands.

***Claim Rejections - 35 USC § 103***

The rejection of claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,569,529 to Phillips et al as applied to claim 3 above, and further in view of U.S. Patent No.6, 238,471 to Vogt et al. as general set forth in the first office action mailed on 10/26/2006 stands.

The rejection of claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,569,529 to Phillips et al as applied to claim 2 above, and further in view of U.S. Patent No.5, 624,468 to Schmid et al. as general set forth in the first office action mailed on 10/26/2006 stands.

The text of those sections of title 35 US Code not included in this action can be found in the prior Office Action.

(3)

***Response to Amendment***

Applicants' amendments to the Claim Objections, filed on 01/29/2007 are acknowledged. As such, the objections to the claims 20 and 21 set forth in the First Office Action are withdrawn.

(4)

***Response to Arguments***

Applicant's arguments filed 01/29/2007 have been fully considered but they are not persuasive. Therefore, the grounds of rejection for claims 1-21 as indicated in the first Office Action stand.

Regarding claims 1-6, 9 and 11-21, first, the applicant argues that the pigment of Phillips et al. has a reflective core.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., transparent or semi-transparent core) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). It is also noted that the pigment structure of Fig 9 does not has a reflective core. The structure of the pigment is Reflector - Dielectric - Ti-based Absorber (figure 9). The dielectric layer can be a multiple sublayer of low index and high

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index materials (col. 7, lines 10-15 and col. 7, line 67 – col. 8, line 22). The dielectric layer can comprise of silicon substrate, which can be non-stoichiometric material. The ratio of silicon to oxygen can be varied in the range of from 1:1 to 1:2 (col. 7, lines 59-65).

Second, the applicant argues “ the dielectric material of US 6,569,529 is, for example, predominately SiO<sub>1</sub> or SiO<sub>2</sub>, but not a SiO<sub>y</sub> with  $1.0 \leq y \leq 2.0$ , e, g, a SiO<sub>y</sub> with  $1.1 \leq y \leq 1.8$  as in the instant invention.”

In response, the Examiner respectfully submit that Phillips et al. state “non-stoichiometric dielectric material are also within the scope of the present invention” (col. 7, lines 59-65).

Regarding claims 7 and 8, The applicant argue “While similarities may exist between the process of instant claim 7 and US 6,238,471, and between instant claim 8 and US 5,624,468, Applicants respectfully suggest that, as discussed above, the pigments of the instant invention having a transparent or (semi) transparent core of SiO<sub>y</sub> with  $1.1 \leq y \leq 1.8$  are novel over Phillips et.al. US 6,569,529. Adapting portions of the art as found in US 6,238,471 and US 5,624,468 in order to find a process to prepare the previously un contemplated pigments of the instant invent invention is itself a novel and non-obvious invention.”

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., transparent or semi-transparent core) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the

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specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The Examiner respectfully submit that the ground for rejection of pigment core stand as set forth in the previous office action and in previous paragraph in this office action, the rejections are proper and stand.

(5)

**Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shuangyi Abu-Ali whose telephone number is 571-272-6453. The examiner can normally be reached on Monday - Friday 7:30 AM-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SA

  
**J. A. LORENGO**  
**SUPERVISORY PATENT EXAMINER**